IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

-

WRIT PETITION NO : 13617 of 1994

Between:

Ch. Nataraj Kumar S/o Ch. Ramachandra rao
Ex-Combatant of Indian Air Force,
R/o H.No.82/3, Saraswati Nagar, Lothukunta,
Hyderabad

..... PETITIONER

AND

1 The Chief of the Air Staff, Air Headquarters,
Vayu Bhavan, New Delhi-11
2 The Air Officer Commanding, Air Force Record Office
Subroto Park, New Delhi-10
3 The Commanding Officer, Helicopter Training School
Air Force Station, Hakimpet, Secunderabad-14.
4 The Senior Medical Officer, Air Force Station, Hakimpet,
Secunderabad-14 **.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction particularly in the nature of writ of Mandamus declaring the action of the second respondent in directing the third respondent vide Signal No.RRD/699 dated: 20-6-1994 to discharge the Petitioner from service with retrospective effect from 16-6-1994 without completing Release Medical Board as arbitrary, discriminatory, illegal and invalid and consequently direct the Respondents to reinstate the petitioner into service and continue him until completion of Release Medical Board with all consequential benefits.

Counsel for the Petitioner: MR.V.JAGAPATHI

Counsel for the Respondents 1 to 4: Mrs.A.P.Lakshmi.

The Court made the following :

O R D E R :

1. The Writ Petition is filed assailing direction to the 3rd respondent to discharge the petitioner from service with retrospective effect from 16.06.1994 without completing Release Medical Board, as arbitrary and illegal, and consequently to direct the respondents to reinstate him into service and continue him until completion of Release Medical Board with all consequential benefits.

2. The petitioner was enrolled in Indian Air Force on 10.01.1981 and since he did not get permanent commission, he filed an application on 07.01.1994 to discharge him on educational grounds. Accordingly, he was directed to be discharged on educational grounds. The said order is assailed in this Writ Petition.

3. The learned counsel for the petitioner submits that the petitioner could not be discharged on educational grounds, but it should be treated as having been discharged on medical grounds, and so, he is entitled for pensionary benefits accordingly and therefore, the order passed by the 3rd respondent to discharge the petitioner from service with effect from 16.06.1994, is illegal and arbitrary.

4. On the other hand, the learned Standing Counsel for the Central Government submits that the petitioner himself made an application on 07.01.1994 to discharge him from service on educational grounds on the ground that he could not get permanent commission in the Air Force. In such a situation, question of discharging the petitioner on medical grounds does not arise. More over, the petitioner has completed only 13 years and 5 months of service. Under these

circumstances, the petitioner is not entitled for any pension as minimum of 15 years' service has not been completed by him.

5. Under these circumstances, I do not find any grounds to grant any relief as prayed for and when the petitioner himself has sought for discharge from service on educational grounds, the question of discharging him on medical grounds does not arise.

6. Accordingly, this Writ Petition is dismissed. No costs.

29.07.2004

Copy to:

1 The Chief of the Air Staff, Air Headquarters,
Vayu Bhavan, New Delhi-11
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Secunderabad-14
5. Two CD copies.

CHV/DRK